

Notice of Allowability**Application No.**

08/819,669

Applicant(s)

BOON ET AL.

Examiner

Phillip Gambel

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/29/2010, 08/05/2010.
2. ☒ The allowed claim(s) is/are 192-194.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 08/05/2010.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Phillip Gambel/
Primary Examiner, Art Unit 1644

DETAILED ACTION

1. Applicant's amendment, filed 04/29/2010, has been entered.
Claims 183-191 have been canceled.
Claims 1-182 have been canceled previously.

Applicant's amendment, filed 08/05/2010, has been entered.
Claim 195 has been canceled.
Claim 192 has been amended.

Claims 192-194 are pending.

EXAMINER'S AMENDMENT

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

3. The Title has been replaced with the following.

-- ISOLATED TUMOR REJECTION ANTIGEN PRECURSOR PROTEINS MAGE-2 AND MAGE-3 -- .

REASONS FOR ALLOWANCE

4. The following is an Examiner's Statement of Reasons for Allowance:

Applicant's canceled claims, filed 04/29/2010, have obviated the previous rejection under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 5,843,448.

Applicant's canceled claim, filed 08/05/2010, has obviated the previous issues directed to an invention not patentably distinct from claims 1-8 of commonly assigned U.S. Patent No. 7,495,074.

Given the cancellation of claims drawn to MAGE-4, applicant's terminal disclaimer, filed 03/26/2009, over the claims of U.S. Patent No. 7,495,074, is no longer deemed necessary.

Applicant is invited to consider filing a petition to withdraw/expunge this terminal disclaimer of record.

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As indicated previously, claims drawn to isolated MAGE tumor rejection antigen precursor proteins MAGE-2 and MAGE-3 appear to be free of the prior art.

Accordingly, the claims are deemed allowable.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on (571) 272-0735.

The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phillip Gambel/

Primary Examiner
Technology Center 1600
Art Unit 1644
August 16, 2010